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of pleadings or legal documents)

March 12, 2021

CERTIFIED MAIL #7015 1520 0002 2942 5049; Return Receipt Requested

Louisiana Board of Ethics
P.O. Box 4368
Baton Rouge, LA 70821

RE: Request for advisory opinion on
offering private building inspection
work to publicly employed building
inspectors outside of their jurisdiction

Dear Members of the Louisiana Board of Ethics:

I am an attorney-at-law authorized to practice law in this state. On behalf of one of my clients I am requesting an advisory opinion from you as to whether, under the fact presented in this letter, the Louisiana Code of Ethics allows my client to hire or contract with a certified building official or building inspector (collectively referred to as "inspector") employed by Orleans Parish or Jefferson Parish. The building official or inspector would perform building inspections for my client, but not in the jurisdiction of the parish that employs the inspector.

The salient facts, as I comprehend them, are:

- (1). My client is a private company that enforces the state uniform construction code, including providing inspections, for commercial contractors, residential contractors, and homeowners under a contract or agreement with contractors or homeowners, as authorized by La. R.S. 40:1730.24(B).
- (2) The inspection work performed by my client is done through my client's full-time or part-time employees or independent contractors.

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- (3) The inspection work is actual bona fide work that an inspector must complete before getting paid.
- (4). My client does not have any type of contractual, business or financial arrangements with either Orleans Parish or Jefferson Parish and is not seeking any one of these arrangements.
- (5). My client does not seek, for compensation, to influence the passage or defeat of legislation by either parish.
- (6) My client is not regulated by either parish. The only connection that my client has with Orleans Parish or Jefferson Parish is the filing of my client's inspection reports with the proper parish agency.
- (7). My client does not have any substantial economic interests which may be substantially affected by the inspector's performance or nonperformance of his or hers official duties with the parish the inspector works for..

I am aware of advisory opinion #96-270, issued by this board, regarding building inspectors being compensated by a private person or entity for performing building inspections for that person or entity. To me, the opinion essentially says that municipal and parish building inspectors may provide private inspections on buildings outside of their respective jurisdictions for private persons or entities for compensation; provided that the person or entity compensating the inspector is not otherwise a prohibited source of income pursuant to R.S. 42:1111(C)(2)(d) and the private services do not interfere with the inspector's public duties.

Correct me if I am wrong, but I understand that there are five conditions that must be met before the inspector can do private inspection work for my client. Those conditions are: (1) the inspector cannot perform inspection work for my client in the parish employing the individual; (2) the work must be actual bona fide work; (3) the parish employing the individual must not prohibit the individual from performing private work on his or her off time; (4) the private work must not interfere with the inspector's performance of his or her public duties; and (5) the inspector must not be prohibited by R.S. 42:1115 from soliciting or accepting a gift

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from my client. Based on the facts presented above I do not believe that there would be any violation of R.S. 42:1115. However, My questions are:

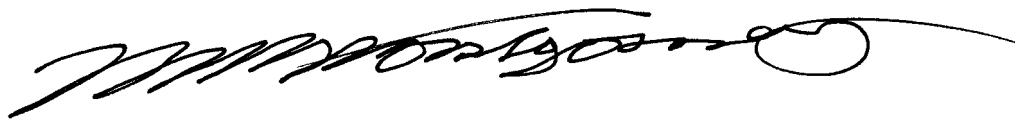
(1) Under the facts presented in this letter may an inspector, who is employed by either Orleans Parish or Jefferson Parish but who is not the head of his agency, perform actual, bona fide, private inspection work for my client and be compensated for the work if the work is performed outside the jurisdiction of the parish the inspector works for, if there is no parish prohibition against the inspector performing private work outside of his or her public work time, and the private inspection work does not interfere with the inspector's public duties?

(2) Under these facts presented in this letter may an inspector who is employed by either Orleans Parish or Jefferson Parish and who is the head of his or her parish agency perform actual, bona fide, private inspection work for my client and be compensated for the work if the work is performed outside the jurisdiction of the parish the inspector works for; if there is no parish prohibition against the inspector performing private work outside of his or her public work time, and the private inspection work does not interfere with the inspector's public duties?

(3) Would your answers apply to my client employing inspectors employed by other municipalities or parishes, if the other facts and circumstances remain the same?

Thank you for your opinion in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Marvin Montgomery", with a large, stylized flourish at the end.

J. Marvin Montgomery

J. Marvin Montgomery
Attorney at Law
151 Antill Drive
Thibodaux, LA 70301

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